

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Land – Ranga Reddy District – Revision petition filed by Sri K.C. Venkatewarlu, S/o. Ramakrishna Reddy, R/o. Tarnaka, Secunderabad on behalf of M/s. Creative Homes Pvt. Ltd., against the proceedings of RDO., Malkajgiri in B/147/2014, dt. 24.01.2014- Allowed – Orders – Issued.

REVENUE (ASSIGNMENT. V) DEPARTMENT

G.O. Ms. No. 124

Dated: 24-03-2014

Read the following:

1. Revision Petition dt. 01.02.2014, filed by M/s. Creative Homes Pvt. Ltd., rep. By its Managing Director, Sri K.C. Venkatewarlu, S/o. Ramakrishna Reddy, R/o. Tarnaka, Secunderabad.
2. Govt. Memo.No. 04893/Assn.V(3)/2014-1, dt. 03.02.2014.
3. From Sri K.C. Venkatewarlu, Managing Director, M/s. Creative Homes Pvt. Ltd., R/o. Tarnaka, Secunderabad, repn. dt. 04.03.2014.
4. Govt. Memo.No. 04893/Assn.V(3)/2014-2, dt. 11.03.2014.

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ORDER :

In the reference 1st read above, Sri K.C. Venkatewarlu, S/o. Ramakrishna Reddy, R/o. Tarnaka, Secunderabad has filed Revision Petition before the Government, on behalf of M/s. Creative Homes Pvt. Ltd., against the proceedings of RDO., Malkajgiri in B/147/2014, dt. 24.01.2014 on the following grounds:

GROUND:

- a. The proceedings dt. 24.01.2014 of the RDO., Malkajgiri are illegal unjust, contrary to the provisions of AP.(T.A) Irrigation Act, 1357 Fasli without Jurisdiction.
- b. The 2nd and 3rd respondents, i.e., RDO., Malkajgiri, Tahsildar, Malkajgiri failed and should have issued notices to the petitioner, before localization or conducting any survey, identification of FTL with reference to the subject property. Without following any such procedure they concluded the exercise and got a report prepared by the Dy. Inspector, of Survey at the Division office. The same was relied upon by the 2nd respondent and issued the present proceedings.
- c. The 2nd respondent erred in describing the extent covered by cheruvu was under occupation and encroached by the petitioner without any basis or examine the title documents of the petitioner.
- d. The 2nd respondent should have seen that the property is regularized and necessary orders were issued by the Government after examination of the records such as Revenue, Survey including impact of Cheruvu as the provisions of the Irrigation Act, etc., at the Government level.
- e. The 2nd respondent should have seen that the subject property is fell for consideration of FTL issue and the competent authority has undertaken necessary exercise under relevant provision of Law and Rules. As such the high handed action to demolition/ dispossession and eviction from the subject property is wholly illegal and untenable.
- f. The 2nd respondent should have seen that the volumeness of the material placed on the record (filed in Writ Petition for which the 2nd and 3rd respondents were also party respondents) have noticed the same. Hence, even without examining the same the proceedings were issued. As such it shows the predetermination of issue and unilateral action is proposed to stop the construction under progress which is in accordance with the sanctioned plan.

(contd. P.2)

- g. The 3rd respondent has executed his jurisdiction and issued Memo to the staff direction them to stay at the site and see that the construction is not to proceed further. This is one without authority of Law and clearly shows that the 2nd and 3rd respondents were hand in glove with the persons vested interest over the subject property.
- h. The 2nd and 3rd respondents did not even issued any notice before the measurement stated to have taken or did not even informed the petitioner about the basis record for the same.
- i. All and other grounds if any may be pleases to permit the petitioner to raise at the time of hearing Revision.

2. While submitting the recorded evidence, the Revision Petitioner has requested to set aside the proceedings No. B/147/2014, dt. 24.01.2014 issued by the SGDC& RDO., Malkajgiri for eviction of petitioner from the property in Sy. No. 249/1 & 249/2 situated at Ramakrishnapuram, Malkajgiri Village & Mandal, Ranga Reddy District declaring it as without Jurisdiction and contrary to the Provisions of AP.(T.A) Irrigation Act, 1357 Fasli and pass such other further order or orders as this Hon'ble authority may deem fit and proper in the circumstances of the case.

3. While admitting the Revision, through the reference 2nd cited, the Counsel for the Petitioner and the Respondent i.e., the SGDC& RDO., Malkajgiri and other concerned have been directed to attend the hearing on 03.02.2014.

4. Accordingly, the hearing was conducted on the same day, and during the course of hearing, the RDO., Malkajgiri has concluded that according to the report of the Dy. Inspector of Survey, Malkajgiri Division, the construction of structure /building covered in the land in Sy. No. 249/1 is falling within the FTL of Mukkidi Cheruvu(R.K. Puram Cheruvu) and hence issued notice to evict the encroached area which is falling within the FTL of Mukkidi Cheruvu within (15) days from the date of receipt of the notice. Otherwise action will be taken for removal of the said land construction in an extent of 2000 Sq. Yds. Besides initiating action U/s. 40 of AP.(T.A) Irrigation Act, 1357 Fasli.

5. The Counsel for the petitioner has argued that as per the copy village Map drawn by Survey authorities it was clearly described that the Mukkidi Cheruvu is out side the purview of Sy.No. 249. Therefore, it is clear that the Cheruvu extent was subsequently only after revision of survey, the tippon Sy. No. was assigned as Sy.No. 249/1 to an extent of Ac. 3.09 gts. out of total area Ac. 4.24 gts. including FTL area. That meant an extent of Ac. 1.15 gts. is patta land. Similarly in Sy. No. 249/2 there is not cheruvu land and no FTL area was shown. As such the authorities have made subdivision to Sy. No. 249 and assigned Sy. No. 249 as 249/1 and 249/2. The extent of land Ac. 1.15 gts. and Ac. 3.02 gts. was purely private and patta and has nothing to do with the cheruvu or FTL area which was subsequently identified and boundaries were fixed dread stones were erected in and around the cheruvu area. It was clearly mentioned and reflected in the FTL report prepared and Map was drawn by the Irrigation Engineer who is competent under the provisions of Irrigation Act, the extent covered by Cheruvu was described separately. As such the action initiated by the SGDC& RDO., Malkajgiri and issuance of proceedings dt. 24.01.2014, are without Jurisdiction and the same is liable to be declared as illegal and set aside.

6. After hearing both the arguments it was directed the I&CAD Dept. to furnish a report whether the subject land falls with in the FTL or not.

7. Accordingly, the E.E. North Tanks Division, Secunderabad, while addressing the RDO., Malkajgiri reported that the site under construction of Ramakrishnapuram(V) has been inspected and stated that the present ground level above site location has been verified with reference to the FTL elevation of +549.294 m as per the memoirs. It is observed that the ground elevation at the said site is above the FTL of Mukkidi Cheruve and the details of land classification in respect of Sy.No.249/1 and 249/2 are also to be verified from past revenue records to ensure whether the said site under construction falls within the shikam, shikam patta or not.

8. The Tahsildar, Malkajgiri who was present at the time of hearing conducted on 15.03.2014 has given evidence by submitting the Pahani copies that the subject land is patta land as per Revenue Records and not Shikam.

9. Heard the learned counsel for the petitioner and the officers of Mandal level and as well as Division. It is the contention of the petitioner that the land does not fall under the FTL. It is further borne on record that these lands were surplus lands declared under the Urban Ceiling & Regulation Act, 1976, by virtue of the Government orders issued vide G.O. Ms. No. 455, dt. 29.07.2002, and the subject property of the petitioners were regularized duly necessary consequential proceedings were issued confirming the title of the petitioner. The other contention of the petitioner is that the plan is sanctioned by the GHMC for construction duly taking into consideration FTL Zone, and No Objection Certificate was issued by the Collector after calling necessary reports from the Survey and I&CAD Dept., and the boundaries were fixed and dread stones were erected around the FTL of the said Tank. After filing this Revision, the petitioner obtained the records from the Revenue Dept., where the Maps were drawn contradicting the earlier versions.

10. Therefore the I&CAD have been requested to furnish a report in addition to the Village Revenue records from the Revenue Department side. After perusing the revenue records nowhere it is mentioned that a classification of the subject land is found as Shikam as described in the impugned notice, and also clarification by the Tahsildar who appeared the hearing conducted on 15.03.2014 having stated that the subject property is patta land and have been continued till date. These records have also clearly shows that there is no FTL or Shikam is recorded in the revenue columns, as contained by the R.D.O., Malkajgiri. Hence, this is only as FTL fixation, and the subject land has been out of the said level as per records.

11. Therefore, the Revision Petition is deserves to be allowed. Accordingly, the Revision Petition filed by the Petitioner is hereby allowed duly quashing the impugned notice/proceedings issued in No. B/147/2014, dt. 24.01.2014 of the R.D.O., Malkajgiri.

12. Typed to dictation, corrected by me and pronounced the order dated 22.03.2014.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**B.R. MEENA
PRINCIPAL SECRETARY TO GOVERNMENT**

To
Sri K.C. Venkatewarlu, S/o. Ramakrishna Reddy,
Managing Director, M/s. Creative Homes Pvt. Ltd.,
H.No. 12-5-29/4/A, Vijayapuri,
Tarnaka, Secunderabad.

M/s. P. Srinivasa Rao & P. Sampath Kumar,
Advocates,
No. 202, HACA Bhawan,
Opp. Public Gardens,
Hyderabad – 500 004.

The District Collector, Ranga Reddy.

The RDO., Malkajgiri.

The Tahsildar, Malkajgiri.

Copy to

The E.E., North Tanks Division,
First Floor, Budha Bhavan,
M.G. Road, Secunderabad.
Sf/Sc.

//FORWARDED::BY ORDER//

SECTION OFFICER